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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/897,292	06/29/2001	Gerald I. Cohen	COHE0002	1998

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EXAMINER

VAUGHN, GREGORY J

ART UNIT PAPER NUMBER

2178

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/897,292	COHEN, GERALD I.	
	Examiner	Art Unit	
	Gregory J. Vaughn	2178	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) 1-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 40-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/01 & 9/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Application History

1. This action is responsive to applicant's Election Transmittal Letter, filed on 1/12/2005.
2. Claims 1-39 are non-elected, claims 40-56 are elected. Claims 40-56 are pending in the case, claims 40, 52 and 54 are independent claims.
3. Acknowledgement is made to the applicant's submission of two Information Disclosure Statements, filed 10/5/2001 and 9/17/2002, respectively.

Election/Restrictions

4. Applicant's election without traverse of claims 40-56 in the reply filed on 1/12/2005 is acknowledged.

Specification

5. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

"A person shall be entitled to a patent unless –

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language."

7. Claims 40-47, 51, 52 and 54 are rejected under 35 U.S.C. 102(e) as being anticipated by McNally et al. US Patent 6,384,850, filed 9/21/1999, patented 5/7/2002 (hereinafter McNally).

8. **Regarding independent claim 40**, McNally discloses a menu template, a menu template modifier, and a menu database, where a menu is generated by the modifier based upon the template and the data in the database. McNally further discloses enabling a user to select a desired menu from the menu database. McNally recites: *"The inventive approach also includes templates for common modifiers that can be assigned to similar menu items. The preferred embodiment also supports multiple databases, thus providing for the creation and storing of different menu database on handheld devices such as breakfast, lunch or dinner menus. The user can then select the*

appropriate database to reflect the time of day" (column 10, lines 6-13).

McNally discloses in Figure 7, displaying the menu to a user (see reference sign 16), so that the user can select from a plurality of menu items (menu items are shown in Figure 7 as "*Dessert*", "*Drinks*", "*Main*", "*Prev*" etc.), where a menu item has an event associated with it (shown as "*Main*") and causing the selected event to occur (in Figure 7, selecting the "*Main*" menu item would cause the display to change to the main menu).

9. **Regarding dependent claim 41**, McNally discloses the event as displaying an additional menu (as described above).
10. **Regarding dependent claim 42**, McNally discloses a sequencer component that determines in which a plurality of events should occur in Figure 7 (shown as the tabs at the top of the figure labeled "*Login*", "*Checks*", "*Order*", "*View*" and "*Pay*"). McNally further discloses the use of a timing function in Figure 4 at reference sign 12 (shown as "*Prep. Time*").
11. **Regarding dependent claim 43**, McNally discloses disabling sequencer and timer events so that a user can navigate through a sequence of menus more rapidly in Figure 7 (shown as the "*Browse*" button at the bottom of the figure). The browse screen is shown in Figure 1 of McNally.
12. **Regarding dependent claim 44**, McNally discloses a plurality of database records that define a plurality of sequential menus in Figure 1 at reference signs 2, 3 and 4 (shown as a "*Menu Tree*"). The Menu Tree shown

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in Figure 1 of McNally enables the use to select a sequence of menus (shown as “*Menu*” on the menu tree), a sequence of menu items (shown as “*Entrees*” on the menu tree), by selecting a menu item (for instance “*NY Strip*”).

13. **Regarding dependent claim 45**, McNally discloses a tracker component that records each menu item selected in Figure 7 (shown as “*Select Guest to Order for*”).
14. **Regarding dependent claim 46**, McNally discloses the generation of a report related to the items selected on a previous menu in Figure 4 (the report shown in the figure would be generated upon a user selecting the “*Chicken Alaska*” menu item in a previous menu).
15. **Regarding dependent claim 47**, McNally discloses generating a report that includes each previously selected menu item in Figure 7 (shown as the tab labeled “*View*” at the top of the figure). The report could be used to provide results of a questionnaire comprising the menu items displayed to the user from which the user selected specific menu items.
16. **Regarding dependent claim 51**, McNally discloses an editing function with the menu template modifier that allows a user to edit a menu item in Figure 2 at reference sign 2 (shown as editable text boxes in the figure).
17. **Regarding independent claims 52 and 54**, the claims are directed toward an article of manufacture and a system, respectively, for the method of claim 40, and are rejected using the same rational.

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

“(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.”

19. Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over McNally in view of Mundell et al. US Patent 6,549,890, filed 8/29/1997, patented 4/15/2003.

20. **Regarding dependent claim 48**, McNally discloses a menu template, a menu template modifier, and a menu database, where a menu is generated by the modifier based upon the template and the data in the database; and enabling a user to select a desired menu from the menu database, as described above. McNally also discloses the use of a timer function that can be enabled and disabled by a user as described above. McNally fails to disclose the timer function controlling display of successive menus. Mundell discloses the timer control of successive displays in Figure 7, at reference sign 72 (shown as “Screen Change Field”). Mundell also recites: *“If a user of computer 14 wanted a display screen 22 to change upon 30 seconds if no other active link event is activated, she would select “30 seconds” from the*

pull down menu of screen change form field 79. If a user of computer 14 wanted to start timer 52 upon the activation of a certain display screen 22, she would select "start timer" from the pull down menu of timer control form field 81" (column 8, lines 41-48).

Therefore, it would have been obvious, to one of ordinary skill in the art at the time the invention was made to use the timer teachings of Mundell with the menu system of McNally so that *"the data device can be easily programmed and re-programmed to be used for a plurality of different applications"* (Mundell, column 2, lines 64-67).

21. Claims 49, 50, 53, 55 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over McNally in view of Banerjee et al. US Patent 6,760,017, filed 10/16/1995, patented 7/6/2004.

22. **Regarding dependent claims 49 and 50**, McNally discloses a menu template, a menu template modifier, and a menu database, where a menu is generated by the modifier based upon the template and the data in the database; and enabling a user to select a desired menu from the menu database, as described above. McNally fails to disclose displaying the menu items in a spatial organization so that each item has a one to one relationship with the keys on a keyboard (claim 49) or the keys on a numeric keypad (claim 50). Banerjee discloses displaying the menu items in a spatial organization so that each item has a one to one relationship with the keys on a numeric keypad (of a keyboard) in figure 66 at reference sign 1632 (the

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menu mapped to the keypad is shown on the right hand side of the figure where the keypad #1 is mapped to the "End" menu item, the keypad #3 is mapped to the "page down" menu item, etc.)

Therefore, it would have been obvious, to one of ordinary skill in the art at the time the invention was made to use the keypad menu item mapping of Banerjee with the menu system of McNally to provide an *"interface device that includes a display that can interface with a host computer in a stand-alone configuration or a host computer connected in either a wired or wireless local area network (LAN)"* (column 2, lines 16-19).

23. **Regarding dependent claims 53, 55 and 56**, the claims are directed toward an article of manufacture and a system, respectively, for the method of claims 49 and 50, and are rejected using the same rational.

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Conclusion

24. The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

<u>Patent</u>	<u>Date</u>	<u>Inventor</u>
• US-5,371,851	12-1994	Pieper et al.
• US-5,805,676	09-1998	Martino, Rocco L.
• US-5,987,103	11-1999	Martino, Rocco L.
• US-5,915,001	06-1999	Uppaluru, Premkumar V.
• US-6,574,314	06-2003	Martino, Rocco L.
• US-6,813,777	11-2004	Weinberger et al.

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Vaughn whose telephone number is (571) 272-4131. The examiner can normally be reached Monday to Friday from 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen S. Hong can be reached at (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is (571) 272-2100.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gregory J. Vaughn
May 13, 2005


STEPHEN HONG
SUPERVISORY PATENT EXAMINER